

**Notice of Allowability**

Application No.

10/091,889

Examiner

Colby Hansen

Applicant(s)

JOHANSSON ET AL.

Art Unit

3682

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the appeal brief filed 11/3/2004.
2. ☒ The allowed claim(s) is/are 26-50.
3. ☒ The drawings filed on 3/5/2202 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 09/174,748.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>9/7/2004</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                               | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

**DETAILED ACTION**

***Response to Arguments***

In view of the Appeal Brief filed on 11/3/2004, PROSECUTION IS HEREBY REOPENED.

Applicant's arguments, see Appeal Brief, filed 11/3/2004, with respect to claims 26-50 have been fully considered and are persuasive. The rejection of claims 26-50 has been withdrawn.

***Response to Amendment***

The affidavits filed on 4/19/2004 under 37 CFR 1.131 are sufficient to overcome the Huff et al. (US 2,86,720) and French Pat. 2739947 references.

***Allowable Subject Matter***

Claims 26-50 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record does not disclose or otherwise suggest an adjustable pedal assembly comprising a mounting arrangement, at least one pedal having first and second ends and supported for pivotally moving about a first pivot axis, an adjustment element pivotally supported on said mounting arrangement about a second pivot axis, said first and second pivot axis being generally parallel, a drive mechanism operably connected to said adjustment element for selectively rotating (1) an electric signal generator responsive to pivotal movement of said pedal for

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electrically controlling a vehicle system, (2) said adjustment element, (3) said pedal, and (4) first pivot axis about said second pivot axis without pivotally moving the aforementioned components about said first pivot axis relative to said adjustment element. Examiner still contends that the adjusting structure of Huff et al. (US 2,86,720) is considerably comparable to applicants' invention. However, Examiner concedes that because the adjusting element of Huff et al. (US 2,86,720) requires the pivotal movement about shaft 64 during orientation changes of the pedal assembly, it does not fulfill the limitation that the electric signal generator, adjustment element, pedal, and first pivot axis pivot about a second pivot axis without pivotally moving said components about the first pivot axis. Furthermore, Examiner further concedes that there is insufficient antecedent motivation to combine Huff et al. (US 2,86,720) with French Pat. 2739947 in such a manner that the electric signal generator would be fixedly mounted to axis 64, and actuating rod 66 removed, such that the electric signal generator would rotate about axis 48, but not actuated until pressed by the operator. Such a modification teaches away from Huff et al. (US 2,86,720) need for the pedal 60 to rotate relative to the axis 64.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (703) 305-1036. The

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examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

  
DAVID A. BUCCI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Colby M. Hansen

 1/24/05  
Patent Examiner